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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,223	08/28/2003	Chiyumi Niwa	B422-241	6354
26272 7590 02/05/2008 COWAN LIEBOWITZ & LATMAN P.C. JOHN J TORRENTE 1133 AVE OF THE AMERICAS NEW YORK, NY 10036			EXAMINER LAM, HUNG H	
			ART UNIT 2622	PAPER NUMBER
			MAIL DATE 02/05/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/650,223

Applicant(s)

NIWA, CHIYUMI

Examiner

Hung H. Lam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/10/07 and 01/08/08 has been entered.

Response to Amendment

2. The amendments, filed on 12/10/07, have been entered and made of record. Claims 1-10 are pending.

Response to Arguments

3. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. Claims 1, 3 and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koseki (US-7,098,946) in view of Shigemoto (US-5,469,125).

It is noted that the USPTO considers the Applicant's "one of" language to be anticipated by any reference containing one of the subsequent corresponding elements.

With regarding **claim 1**, Koseki discloses an image pickup apparatus including a first mode for picking up an object image and a second mode for reproducing a recorded image (Fig. 2; see ring-like record/playback button 26 on the circumference of power switch button 25), said apparatus comprising:

an operation member which is switched to said first mode according to an operation to a first position (Fig. 2; ring-like R/P button 26 and on/off button 25), and is switched to said second mode according to an operation to a second position (Col. 11, Ln. 15-22).

However, Koseki fails to explicitly disclose the operation member further itself is automatically forced to be suppressed to a third position different from each of the first position and second position when said operation member is not operated by a user.

Shingemoto teaches a rotary electronic switching device (Fig. 7) which can be pushed to a side by force and returned to initial neutral position when the pushing force is removed (Figs. 7 and 9; Col. 7, Ln. 29-68; Col. 8, Ln. 3-23). In light of the teaching from Shingemoto, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki to include the rotary switching device of Shingemoto in order for a

switch to return to initial neutral position when a pushing force is removed. The modifications thus allow a recording and playback switch to response quicker for the next operation.

Koseki as modified by Shingemoto teaches a control means (Koseki: Fig. 1; CPU 8) for changing control to said image pickup apparatus according to a current mode thereof and one of the first and second position (Koseki: Col. 11, Ln. 15-22) to which said operation member is operated from the third position (Shingemoto: see initial neutral position Fig. 7: Col. 8, Ln. 3-24).

With regarding **claim 3**, Koseki in view of Shingemoto discloses an image pickup apparatus wherein in case that said image pickup apparatus is in an electric power off state (Koseki: Col. 11, Ln. 5-14), said control means turns electric power on according to a mode switching operation of said operation member and starts up said image pickup apparatus in a mode corresponding to a position operated in the mode switching operation (Koseki: Col. 11, Ln. 5-33).

With regarding **claim 5**, Koseki in view of Shingemoto fails to explicitly disclose an image pickup apparatus wherein in a state of said first mode, said control means switches to a mode different in photographing format from that of said first mode according to the operation of said operation member to said first position.

Official Notice is taken that it is well known and expected in the art for an image pickup apparatus to be switched to different photographing format such that one of the wide angle, telephoto angle, landscape and portrait format. Therefore, it would have been obvious to one of

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ordinary skill in the art to modify the device of Koseki and Shingemoto to switch to different photographing format. The modifications thus provide a more versatile camera.

As Applicant has not traversed the old and well known statement set forth above, “an image pickup apparatus wherein in a state of said first mode, said control means switches to a mode different in photographing format from that of said first mode according to the operation of said operation member to said first position” is now taken as admitted prior art. See MPEP 2144.03(c).

With regarding **claim 6**, Koseki in view of Shingemoto fails to explicitly an image pickup apparatus according to claim 1, wherein position in a state of said second mode, said control means switches to a mode different in reproduction format from that of said second mode according to the operation of said operation member to said second position.

Official Notice is taken that it is well known and expected in the art for an image pickup apparatus to be switched to different reproduction format such that one of the quick review and slide slow. Therefore, it would have been obvious to one of ordinary skill in the art to modify the device of Koseki and Shingemoto to switch to different reproduction format. The modifications thus provide a more versatile camera.

As Applicant has not traversed the old and well known statement set forth above, “wherein position in a state of said second mode, said control means switches to a mode different in reproduction format from that of said second mode according to the operation of said operation member to said second position” is now taken as admitted prior art. See MPEP 2144.03(c).

With regarding **claim 7**, Koseki discloses an image pickup apparatus including a first mode for picking up an object image and a second mode for reproducing a recorded image (Fig. 2; see ring-like record/playback button 26 on the circumference of power switch button 25), said apparatus comprising:

an operation member which is switched to said first mode according to an operation to a first position (Fig. 2; ring-like R/P 26), and is switched to said second mode according to an operation to a second position (Col. 11, Ln. 15-22).

However, Koseki fails to explicitly disclose the operation member further itself is forced to be suppressed to a third position different from each of the first position and second position when said operation member is not operated by a user.

Shingemoto teaches a rotary electronic switching device (Fig. 7) which can be pushed to a side by force and returned to initial neutral position when the pushing force is removed (Figs. 7 and 9; Col. 7, Ln. 29-68; Col. 8, Ln. 3-23). In light of the teaching from Shingemoto, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki to include the rotary switching device of Shingemoto in order for a switch to return to initial neutral position when a pushing force is removed. The modifications thus allow a recording and playback switch to response quicker for the next operation.

Koseki as modified by Shingemoto teaches a control means (Koseki: Fig. 1; CPU 8) for turning electric power of said image pickup apparatus on and determines an operating mode according to one of the first position and second position (Koseki: Col. 11, Ln. 15-22), to which said operation member is operated from the third position (Shigemoto: see initial neutral position

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Fig. 7), when said operation member is operated in a state in which the electric power of said image pickup apparatus is off operations (Shigemoto: see initial neutral position Fig. 7: Col. 8, Ln. 3-24).

With regarding **claim 8**, the claim is a method claim of the apparatus claim 1. Therefore, claim 8 is analyzed and rejected as previously discussed in claim 1.

With regarding **claim 9**, the claim is a method claim of the apparatus claim 7. Therefore, claim 9 is analyzed and rejected as previously discussed in claim 7.

With regarding **claim 10**, Koseki in view of Shingemoto discloses a storage medium computer-readably storing a program comprising a program code for causing a computer to execute (Koseki: Fig. 1; DRAM 11 and Memory 15) said control method of an image pickup apparatus according to claim 8 (see the rejection of claim 8 and/or 1).

6. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koseki in view of Shingemoto and further in view of Ejima (US-2002/0,008,765).

Regarding **claim 2**, Koseki in view of Shingemoto fails to explicitly disclose an image pickup apparatus according to claim 1, wherein during said second mode, said control means shifts said second mode to said first mode without operating said operation member, and according to an operation of an operation member related to photographing, different from said operation member related to the first and second modes.

In the same field of endeavor, Ejima teaches a camera which performs a photographing operation immediately by operating a shutter release button (5) even in the quick review mode (0095-0096). In light of the teaching from Ejima, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki and Shingemoto to perform a photographing operation even in the quick review mode. The modifications thus allow a digital camera to capture any desired images at any instances.

With regarding **claim 4**, Koseki in view of Shingemoto fails to explicitly disclose an image pickup apparatus according to claim 1, wherein said control means withdraws a lens barrel according to the operation to said second position by means of said operation member, when said lens barrel is fed forward in a state of said second mode.

In the same field of endeavor, Ejima teaches a camera wherein a photographing zoom lens 2, which has been driven out retracts to the state shown in Fig. 1A if the electronic still camera 1 is switched to the reproduction mode (0038; 0053). In light of the teaching from Ejima, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki and Shingemoto to retract a photographing zoom lens in the reproduction mode. The modifications thus provide a means for protecting the photographing zoom lens while images are reviewed.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Hyodo (US-2003/0,206,240) discloses a rotary switching device of a camera for reproducing and shooting mode.

b) Kato (US-6,297,795) discloses a rotary switching device for performing multiple functions.

c) Kurahashi (US-2002/0,089,591) discloses a ring like switch switching between playback, off and recording position.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung H. Lam whose telephone number is 571-272-7367. The examiner can normally be reached on Monday - Friday 8AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LIN YE can be reached on 571-272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HL

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Yogesh b. AD